of a judge is that of an impartial arbiter who gives everybody a fair shake under the law as it exists. The role of a judge in our system, in other words, is to determine what the law says not what they or anybody else wants it to say. Yet looking over Ms. Halligan's record, it is pretty clear she does not share that view.

In Ms. Halligan's view, the courts are not so much a forum for the even-handed application of the law as a place where a judge can work out his or her own idea of what society should look like. As she herself once put it: The courts are a means to achieve ''social progress,'' with judges presumably writing the script.

Well, my own view is that if the American people want to change the law, then they have elected representatives to do that, and these elected representatives are accountable to them. This also happens to be how the Founders intended it, and it is what the American people expect of their judges: to be fair, impartial arbiters. But that is not what they would get from a Judge Halligan.

So how do we know this? Well, it is true that like many of this President's other judicial nominees, Ms. Halligan repudiated President Obama's own off-stated ''empathy standard'' for choosing judges and disclaimed an activist bent in her confirmation hearings. But her record belies this now familiar confirmation conversion.

Let's take a quick look at her record to see what it does suggest about the kind of judge she would be.

On the second amendment: As solicitor general of New York, Ms. Halligan advanced the dubious legal theory that those who make firearms should be liable for third parties who misuse them criminally. The State court in New York rejected the theory, noting it had never recognized such a novel claim. Moreover, the court called what Ms. Halligan wanted it to do to manufacturers of a legal product ''legally inappropriate.''

So let me say again, the New York Appellate Court termed Ms. Halligan's activist and novel legal theory to be ''legally inappropriate.'' The Congress passed legislation on a wide bipartisan basis to stop these sorts of lawsuits because they were an abuse of the legal process. Undeterred, Ms. Halligan then chose to file an amicus brief in the Second Circuit Court of Appeals in another frivolous case against firearms manufacturers. Not surprisingly, she lost that case too.

What about her views on enemy combatants?

In 2005, the U.S. Supreme Court ruled in Hamdi v. Rumsfeld that the President has the legal authority to detain as enemy combatants individuals who are associated with al-Qaida. Yet despite this ruling, Ms. Halligan filed an amicus brief years later—years after that—arguing that the President did not possess this legal authority.

On abortion: Ms. Halligan filed an amicus brief in the U.S. Supreme Court arguing that pro-life protesters—protesters—had engaged in ''extortion'' within the meaning of Federal law. The Supreme Court roundly rejected this theory 8 to 1.

On immigration: Ms. Halligan chose to file an amicus brief in the Supreme Court arguing that the National Labor Relations Board should have the legal authority to grant backpay to illegal aliens even though Federal law prohibits illegal aliens from working in the United States in the first place. Fortunately, the Court sided with the law and disagreed with Ms. Halligan on that legal theory too.

The point is that even in cases where the law is perfectly clear or the courts have already spoken, including the Supreme Court, Ms. Halligan chose to get involved anyway, using arguments that had already been rejected either by the courts, the legislature or, in the case of frivolous claims against gun manufacturers, by both. In other words, Ms. Halligan has time and time again sought to push her own views over and above those of the courts or those of the people as reflected in the law.

Ms. Halligan's record strongly suggests that she would not view a seat on the U.S. appeals court as an opportunity to evenhandedly adjudicate disputes between parties based on the law but instead as an opportunity to put her thumb on the scale in favor of whatever individual or group cause in which she happens to believe.

So, Madam President, we should not be putting these kinds of activists on the bench. I have nothing against the nominee personally. I just believe, as I think most Americans do, that we should be putting people on the bench who are committed to an evenhanded interpretation of the law so everyone who walks into a courtroom knows he or she will have a fair shake. In my view, Ms. Halligan is not such a nominee. On the contrary, based on her record and her past statements, I think she would use the court to put her activist judicial philosophy into practice, and for that reason alone she should not be confirmed. So I will be voting against cloture on this nomination, and I urge my colleagues to do the same.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, would the Chair announce morning business, please.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

EXECUTIVE SESSION

NOMINATION OF RICHARD CORDRAY TO BE DIRECTOR, BUREAU OF CONSUMER FINANCIAL PROTECTION

CLOTURE MOTION

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 413, and I send a cloture motion to the desk. In fact, it is at the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection:

Harry Reid, Joseph I. Lieberman, Jeff Bingaman, Patty Murray, Patrick J. Leahy, Kent Conrad, Sheldon Whitehouse, Jack Reed, Benjamin L. Cardin, Barbara Boxer, Al Franken, Max Baucus, Richard J. Durbin, Robert Menendez, Jon Tester, Sherrod Brown, Tom Harkin, Tim Johnson.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. REID. Madam President, I now ask unanimous consent that the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DURBIN. Madam President, can the Acting President pro tempore notify me in what stage we are in the proceedings?

The ACTING PRESIDENT pro tempore. There is 28½ minutes left for the majority in morning business, followed by 30 minutes for the minority in morning business.

Mr. DURBIN. Thank you, Madam President.

NOMINATION OF CAITLIN HALLIGAN

Mr. DURBIN. Madam President, I would like to speak in morning business, and I would like to respond to several things said by the Republican leader of the Senate. The first relates to Caitlin Halligan, who is a nominee to serve on the DC Circuit Court. The DC Circuit Court is the appellate court in the District of Columbia which, I would argue, next to the U.S. Supreme Court is one of our most important.

The decisions of government are often sent to this court for review. At the current time, there are eight who are sitting on that court, and there are three vacancies. Of the eight who are on the court, five are Republican appointments. So it is clear that any effort now to bring a new nominee to the court may tip that political balance. I am afraid that has a lot more to do with the fate of Caitlin Halligan than anything that has been said on the Senate floor this morning.

It is mystifying to me that Senate Republicans would filibuster her nomination. She is extraordinarily well qualified. She served for 7 years as the solicitor general of the State of New York and currently serves as the general counsel at the New York County district attorney's office.

She has argued five cases before the U.S. Supreme Court and has served as counsel of record in dozens of other cases before that Court.

The American Bar Association looked at the qualifications of Caitlin Halligan, and here is what they said: She is unanimously ''well-qualified'' to serve in this position.

Ms. Halligan's legal views are well within the judicial mainstream. She has received widespread support from across the political spectrum.

What I have heard this morning from the Republican leader are isolated examples of cases she may have argued, but he certainly does not speak to the fact that the National District Attorneys Association, the district attorneys from the State of New York, including Republicans Derek Champagne, Daniel Donovan, William Fitzpatrick, James Reams, and Scott Burns have all publicly endorsed her nomination. Raymond Kelly, police commissioner for the City of New York; Robert Morgenthau—one of the most respected district attorneys who ever served in this country; served New York County for 34 years—endorses her; the New York Association of Chiefs of Police; and the New York State Sheriff's Association.

When you listen to these endorsements, you wonder: Is that the same woman the Senate Republican leader just questioned as to whether she was serious about stopping terrorism? I listened to some of these things, and I wonder how people of her quality would ever consider putting their name in nomination—that there could be suggestions on the Senate floor that perhaps she is not as strong as she should be in keeping America safe.

There is simply nothing in the background of Caitlin Halligan that suggests we have any extraordinary circumstances that warrant the defeat of the cloture motion on her nomination.

A moment in history, please. When there was a suggestion of filibustering judicial nominations years ago, and the so-called nuclear option was being discussed, a Gang of 14, a bipartisan group of Senators, came up and said: Unless there are extraordinary circumstances, we should vote on these nominees on the Senate floor.

There are no extraordinary circumstances in the case of Caitlin Halligan. The only thing that is extraordinary is how many people from different walks of life have endorsed her candidacy and the American Bar Association finding her unanimously ''well-qualified.''

There are no legitimate questions about her competence, ethics, temperament, or ideology. All she has done throughout her career is serve as an excellent lawyer on behalf of her client.

The Republican arguments against Ms. Halligan's nomination boil down to just two: First, it does not matter if there are vacancies on the DC Circuit; and, in fact, in the past, they have argued to fill those same vacancies when they had an opportunity to install Republicans. Their second argument: Republicans are not happy with how certain nominees were treated years ago, and they see no problem taking out their unhappiness on this nominee.

This is a dangerous path. I believe our country needs excellent judges. Time and again—in the Acting President pro tempore's State of New Hampshire, in my State of Illinois—you go to people who are sitting on the bench in a State court or in private practice and ask them if they would consider serving their Nation on the Federal court, and they know it is a big decision: whether they are going to change a career. But they know just as well that by submitting their name to the process, they are subjecting themselves to criticism, which many people just do not care to withstand.

In this case, the criticism against Caitlin Halligan is baseless. If judicial nominees cannot be considered fairly by the Senate on their own merits, good lawyers are simply going to stop putting their name into the process for consideration and our country will suffer as a result.

We should give Ms. Halligan an up-or-down vote on her merits. On that standard, she should clearly be confirmed.

TRIBUTE TO JOAQUIN LUNA

Mr. DURBIN. Madam President, I come to the floor today with a sad story for my colleagues. On the day after Thanksgiving, a young man named Joaquin Luna committed suicide in the town of Mission, TX. This is a picture of Joaquin Luna with his mother—a handsome young man full of promise. He took his own life on the day after Thanksgiving.

He was a senior at Juarez-Lincoln High School, where he was a straight-A student, in Mission, TX. He had a passion for architecture. In fact, he designed the home where his family lives. He was an accomplished musician, played guitar in his church choir. His family said he loved helping his neighbors with their landscaping, and he always had a smile on his face.

Joaquin Luna dreamed of becoming an engineer. He had been accepted into a number of excellent schools, including Rice University and Texas A&M. But Joaquin Luna was struggling with a problem most American kids do not even imagine. Joaquin was brought to the United States of America when he was 6 months old by his parents. He came here as a baby, lived his entire life in the United States, and was undocumented. Because of his immigration status, Joaquin Luna was unable to obtain financial aid to attend the universities that accepted him. He was unable to find a legitimate job. Joaquin's brother said his world just closed. He saw that everything he was doing was for nothing. He was never going to be able to succeed.

Joaquin's death is still under investigation, so I do not want to jump to any conclusions about why this tragedy took place. But I felt it was important to come to the floor today to pay tribute to this young man's all-too-brief life and to deliver a message to other young people like Joaquin Luna.

There are tens of thousands of young people in this country facing the same challenges as Joaquin. They were brought to the United States as children. They grew up every single day—just as we did a few moments ago in the Senate—pledging allegiance to the only flag they have ever known, our American flag. They would sing the only national anthem they ever knew. It was not their decision to come to America. Certainly Joaquin did not make any decision at the age of 6 months. But America is their home. And for tens of thousands of others in his status, America is their home and their future, but they are undocumented and their future is uncertain.

I have a message today for all of the young people like Joaquin. Do not give up hope. Keep your dreams alive.